IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 19927 of 2005

Between:

Sammeta Satyanarayana and 2 others

..... PETITIONERS

AND

The Regional Joint Commissioner of Endowments,

Kakinada, E.G.District and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the proceedings of the 2nd respondent in Rc.No.A5/5706/04, dated 23.02.2005, as arbitrary and illegal, the present writ petition is filed.

It is the case of the petitioners that they are the tenants of the 3rd respondent temple of an extent of Ac.8.24 cents. Prior to them, their father was the tenant. In the year 2000, the Irrigation Department acquired Ac.1.00 cents in the subject lands for the purpose of digging a drainage canal. In the meanwhile, the 3rd respondent issued a notice under Rule 5(1) of G.O.Ms.No.379 Revenue (Endts.I) Department, dated 11.03.2003 directing them to vacate the subject lands. Aggrieved by the same, the petitioners filed an appeal before the 2nd respondent, but the 2nd respondent without following due process of law and without affording any opportunity, dismissed their appeal by his orders dated 23.02.2005. Aggrieved by the same, the petitioners preferred a revision to the 1st respondent and during pendency of the revision, the 3rd respondent is contemplating to evict them from the subject lands. Hence the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Endowments.

The 2nd respondent passed the impugned order dated 23.02.2005 stating that there is no landlord and tenant relationship exists between the petitioners and the 3rd respondent temple, and therefore, the Executive Authority of the subject temple is directed to take over possession of the lands from the petitioners. The learned counsel for the petitioners contended that without giving any opportunity to the petitioners, the impugned order has been passed, and the status of the petitioners as tenants of the 3rd respondent temple has been proved in ATC.No.73 of 1995 on the

file of the Tenancy Tribunal-cum-1st Addl.Junior Civil Judge, Machilipatnam, which order has also been confirmed in C.M.A.37 of 1998 on the file of VI Addl.District Judge, F.T.C.Machilipatnam, wherein the 3rd respondent temple is one of the party.

It is not in dispute that after demise of the father of the petitioner by name Venkata Krishnaiah, who was the original tenant of the subject lands, the petitioners are cultivating the lands. But as per records, S.Satyanarayana is only inducted in the DCB Register and there is no landlord and tenant relationship exists between the petitioners and the temple. It is the case where there is no need to give any notice to the persons who are not recognized as tenants by the institution or Endowments Department. The contention of the petitioners that ATC and CMA were allowed affirming that the petitioners are the tenants of the subject lands cannot be accepted in view of the fact that those cases were filed basing on the alleged family arrangement. So the petitioners have failed to establish prima facie to show that they were inducted into possession of the subject lands by the competent authority as tenants. In that view of the matter, there is no need to give any prior notice to the petitioners before passing of the impugned orders. The writ petition is devoid of merit and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

_____

K.C. BHANU,J

Dated: 09.09.2005

Dsr

Note:

Issue CC in three days

B/o

Dsr